

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 33522

STATE OF IDAHO,	)	2008 Unpublished Opinion No. 541
	)	
Plaintiff-Respondent,	)	Filed: July 9, 2008
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
HOWELL JAMES BANKSTON,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Joel D. Horton, District Judge.

Order revoking probation and requiring execution of unified five-year sentence with one-year determinate term for felony eluding a peace officer, affirmed.

Molly J. Huskey, State Appellate Public Defender; Jason C. Pintler, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

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PER CURIAM

Howell James Bankston was convicted of felony eluding a peace officer, Idaho Code § 49-1404(2)(a). The district court imposed a unified five-year sentence with a one-year determinate term, but after a period of retained jurisdiction, suspended the sentence and placed Bankston on probation. Subsequently, Bankston admitted to violating several terms of the probation. The district court continued Bankston on probation but required him to serve thirty days in jail. Bankston again admitted to violating his probation, and the district court consequently revoked probation and ordered execution of the original sentence. Bankston appeals, contending that the district court abused its discretion by failing to *sua sponte* reduce his sentence upon revoking probation.

Sentencing is also a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of a sentence are well

established and need not be repeated here. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007). When we review a sentence that is ordered into execution following a period of probation, we do not base our review upon the facts existing when the sentence was imposed. Rather we examine all the circumstances bearing upon the decision to revoke probation and require execution of the sentence, including events that occurred between the original pronouncement of the sentence and the revocation of probation. *Adams*, 115 Idaho at 1055, 772 P.2d at 262; *State v. Grove*, 109 Idaho 372, 373, 707 P.2d 483, 484 (Ct. App. 1985); *State v. Tucker*, 103 Idaho 885, 888, 655 P.2d 92, 95 (Ct. App. 1982).

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion either in revoking probation or in ordering execution of Bankston's original sentence without modification. Therefore, the order revoking probation and directing execution of Bankston's previously suspended sentence is affirmed.